IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY FOURTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI JUSTICE K.C. BHANU

WRIT PETITION NO : 11465 of 2002

Between:

K.M.Prabhakar, S/o. K.A.P.Sarama,
A.P.S.R.T.C, C/o. R.Satyanrayana,
H.No.9-2-3, Court Street, Ongole, Prakasam District.

..... PETITIONER

AND

The Depot Manager, A.P.S.R.T.C.,
Podili Depot, Podili Post,
Prakasam District.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Certiorary calling for the records relating to the award passed by the Labour Court, Guntur in I.D.No.99 of 1998 dated 31-5-2002 and quash the same and consequently direct the Respondent to re-instate the Petitioner with all back wages and all other attendant benefits.

Counsel for the Petitioner:MR.M.RAVINDRANATH REDDY

Counsel for the Respondent : MR. Manmadha Reddy

MR. VENKATESWARLU POSANI

The Court made the following ORDER:

When the matter is taken up for hearing, there is no representation on behalf of both the parties. Hence, perused the record.

Challenging the Award, dated 31.05.2001, in I.D.No.99 of 1998 on the file of the Labour Court, Guntur, the present writ petition has been filed.

The petitioner claims to have worked as the Conductor in APS RTC. While he was working as such at Podili Depot, on 12.12.1995, a check was conducted in the bus and consequently he was charge sheeted on 30.12.1995. The petitioner is stated to have submitted an explanation. Dissatisfied with the same, a regular departmental enquiry was conducted against the petitioner and all the charges levelled against him were proved. Thereafter, the respondent issued a show cause notice directing the petitioner to show cause as to why he should not be removed from the service. Though the petitioner submitted his explanation, without considering the same, the respondent issued the proceedings, dated 09.05.1996, removing him from service. The same was affirmed in the appeal and also in the review petition. Challenging the same, the petitioner filed I.D.No.99 of 1998 before the Labour Court, Guntur. The Labour Court, on appreciation of the material available on record, came to the conclusion that the petitioner had an intention to misappropriate the funds of the Corporation and also to re-issue the old tickets, which were in his possession

and held that the punishment of removal is just and proper. It also recorded a finding to the effect that the material available on record shows that charges 1 to 4 and 6 levelled against the petitioner were proved and hence the findings of the Enquiry Officer cannot be said to be perverse or baseless. Aggrieved by the same, the present writ petition has been filed.

The grounds taken in this writ petition are that charges 1, 2 and 3 to 5 do not constitute misconduct under Regulation 28 of the A.P.S.R.T.C. Employees Conduct Regulations, that the findings are perverse, baseless, that there is no evidence before the Enquiry Officer to come to the conclusion that the charges leveled against the petitioner are proved and that the punishment imposed by the respondent is quite harsh and disproportionate.

In exercise of its jurisdiction, under Article 226 of the Constitution of India, against the orders passed by the administrative authority, normally this Court will not interfere with the decision taken by the disciplinary authority, unless the findings are not based upon any evidence and perverse or that the principles of natural justice have been violated in conducting the enquiry.

In the domestic enquiry, the TTI, who seized the tickets from the petitioner while he was removing them from the cash bag, was examined. In the cross-examination, he stated that he obtained all the tickets from the hands of the conductor. So, there is clear evidence as to the allegation that the petitioner was found in possession of 53 tickets worth Rs.4.25/- denomination each. No explanation is forthcoming from the petitioner as to why those 53 tickets, which were already issued, were in his possession. Based on the evidence, the labour Court gave a finding that the tickets were found in the possession of the petitioner and he might have collected the same from the passengers with an intention to re-issue the same. The said finding cannot be said to be perverse or contrary to the evidence on record. The petitioner failed to show that the findings are not based upon the material available on record.

In the above background of the case, the only question to be determined is whether the punishment is proportionate to the proved misconduct or not. It is a case where certain irregularities have taken place. The petitioner was found to be in possession of 53 used tickets. The reason is obvious. If the check has not been conducted, there is every scope and possibility for him in re-issuing

the same for the purpose of getting monetary benefit and thereby causing loss to the Corporation. The Conductor is supposed to maintain good behaviour and conduct. The trust reposed in him was totally shaken, in view of his misconduct. Therefore, the punishment imposed on him cannot be said to be disproportionate to the proved misconduct. Upon consideration of the entire material on record, the Labour Court rightly dismissed the I.D. There are absolutely no reasons to interfere with the Award passed by the Labour Court.

The writ petition is accordingly dismissed. There shall be no order as to costs.

After dictating the order, the learned counsel for the petitioner and the learned standing counsel for the respondent appeared before the Court. The learned counsel for the petitioner re-iterated the grounds that were taken in the writ petition, which have already been considered.

24.06.2005

ksld

To

1 The Depot Manager, A.P.S.R.T.C.,
Podili Depot, Podili Post,
Prakasam District.

2 2 CD copies

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